



**US Army Corps  
of Engineers**

Omaha District

## **PUBLIC NOTICE**

**Application No: 2002-90-643**

**Applicant: Spanish Peaks Resort, LLC**

**Waterway: Ephemeral Streams and Associated Wetlands**

**Issue Date: April 18, 2003**

**Expiration Date: May 18, 2003**

**30 DAY NOTICE**

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**Helena Regulatory Office**

**10 West 15<sup>th</sup> Street, Suite 2200**

**Helena, Montana 59626**

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**JOINT PUBLIC NOTICE  
FOR PERMIT APPLICATION SUBMITTED TO  
U.S. ARMY CORPS OF ENGINEERS  
AND  
MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY**

The application of Spanish Peaks Resort, LLC, for approval of plans and issuance of a permit under authority of the Secretary of the Army is being considered by the District Engineer, U.S. Army Corps of Engineers, Omaha, Nebraska. **The project described herein is not being proposed by the Corps, but by the applicant; the Corps will evaluate the proposed work to determine if it is permissible under current laws and regulations.**

**Description of Proposed Project:** The applicant requests permission to place fill material in 1.2 acres of ephemeral and intermittent streams and their associated wetlands, in order to construct a golf course and associated ponds, ski runs, hiking/biking/cross-country skiing trails, ponds not associated with the golf course, restaurants, resort commercial/residential aspects, and roads.

Wetland impacts originate from three different sources: road construction, cart path construction and golf course design (tees, fairways, greens). There will be no jurisdictional wetland impacts resulting from building or home construction. In addition, construction of ski runs and lift facilities will not impact wetlands. Some minimal impact will occur at road and golf cart path crossings of wetlands. Fill and culverts will be placed at the road and cart path crossings. The culverts will enable water flow to be maintained so that hydrology will not be impacted in those areas. Utility lines will be placed in roads wherever practical or feasible, and will not impact wetlands unless absolutely necessary. If it is necessary for utility lines to cross wetlands, a permit modification will be submitted to the Corps and installation will occur in a manner consistent with the Nationwide Permit 12 requirements for utility line activities.

Drawings showing the location and extent of the project are attached to this notice.

**Location:** The Spanish Peaks Resort property is located in Big Sky, Montana to the southeast of Big Sky Ski Resort. The property is a 2556-acre parcel owned by Spanish Peaks Holdings, LLC. The area is within both Madison and Gallatin Counties in Sections 3, 4, and 5 of Township 7S, Range 3E and Sections 31, 32, 33, and 34 of Township 6S, Range 3E.

**Purpose:** The purpose of the proposed project, as stated by the applicant, is to provide an aesthetic, year-round recreational community in the Big Sky area that will enhance the quality of life for residents and resort guests and contribute to the economic development of the area.

## Background:

### Wetland Delineation

Wetlands on the property were delineated according to methods described in the Corps of Engineers 1987 Wetland Delineation Manual in September and October 2002. The delineation was field verified by Helena Office staff in October 2002. Approximately 53 acres of wetlands were identified and 55,626 linear feet of intermittent and ephemeral stream channels. The delineation report and the application can be viewed in their entirety by contacting the Helena Office at 406-441-1375 and scheduling an appointment.

### Avoidance and Minimization

Prior to submitting this application, Spanish Peaks Resort, LLC went through eight iterations of the development. The applicant has stated that most of the changes that occurred between iterations were driven by reducing impacts to waters of the U.S., including wetlands. The first iterations of this project involved approximately five (5) acres of wetland impact. The current iteration would affect only 1.2 acres. The applicant has also stated that avoidance and minimization would continue as a mitigation measure during construction and operation of this project. Specifically, during actual construction, if an element or feature of the project can be built with even less impact to wetlands than previously estimated, such action will be taken.

### Compensatory Mitigation

The mitigation plan for this project consists of avoidance, minimization, and wetland creation. Based upon the verified jurisdictional wetlands map and the most recent engineering designs, direct impacts to jurisdictional wetlands and other waters of the U.S. resulting from this project total 1.2 acres (Table 1). Construction of permanent roads will account for 1.097 acres of the impacts. The remaining 0.095 acres are attributable to cart paths and golf course construction. Wetland impacts from building development would all be in wetlands identified as non-jurisdictional. Wetland credits to offset impacts will amount to 4.4 acres (Table 2). It is intended that the proposed onsite mitigation efforts and resulting credits will offset the losses to wetlands impacted by development.

<b>Table 1. Wetland Impact Summary for the Proposed Spanish Peaks Resort Development Elements.</b>		
<b>Impact Source</b>	<b>Acres Impacted</b>	
	<b>Jurisdictional Wetlands</b>	<b>Other Waters of the US</b>
Permanent Roads	0.958	0.139
Cart Paths	0.071	0.006
Golf Course Construction	0.015	0.003
<b>Total</b>	1.044	0.148
<b>Grand Total for Impacts</b>	<b>1.2</b>	

There are a total of four “on-site” and “in-kind” mitigation sites proposed for the project (Table 2). There are a total of 1.2 acres of wetland impacts. Golf course development and cart path construction account for 0.095 acres of impact. The remaining 1.097 acres of impact result from road construction. Figure 5 identifies the location and size of the “on-site” and “in-kind” mitigation sites. In summation, the total mitigation area is 4.4 acres and the purpose of this area is to mitigate wetland impacts and provide replacement of the wetland functions and values lost at the impact sites. The mitigation areas would provide floodwater retention, sediment and nutrient retention, groundwater recharge, and wildlife habitat.

<b>Table 2. Summary of Proposed Wetland Mitigation Sites.</b>					
Mitigation Site - Map Symbol	Dimensions	Acres	Wetland Type*	Plan View Figure	X-Sect. View Figure
M1	330 x 70 ft	0.64	PE	9a	12
M2	V Shaped 75 x 1000 ft	2.83	PE	9a	12
M3	100 x 200 ft	0.42	PE	9b	12
M4	270 x 80	0.55	PE	9b	12
Totals	Total	4.4			
* PE = Palustrine Emergent					

### Subsequent Phases

Phase 1 of the project includes only the resort area on the northern end of the property. See attached map on page 5.

Phase 2 will consist of the development of the parcel directly to the south of the resort area identified as PH 1 – 8. No wetland delineation has been done to date on the phase 2 property. When more information is known regarding what aquatic resources are present and to what extent they will be impacted, a separate public notice will be issued.

**401 Water Quality Certification:** The Montana Department of Environmental Quality, 1520 East 6th Avenue, PO Box 200901, Helena, Montana 59620-0901, will review the proposed project with the intent to certify in accordance with the provisions of Section 401 of the Clean Water Act. The certification, if issued, will express the State's opinion that the operations undertaken by the applicant will not result in a violation of applicable water quality standards. The Montana Department of Environmental Quality hereby incorporates this public notice as its own public notice and procedures by reference thereto.

**Cultural Resources:** The Corps of Engineers, Omaha District will comply with the National Historic Preservation Act of 1966, as amended. We have checked the National Register of Historic Places and its current supplements, and there are no known National Register sites in the vicinity. A Class III Cultural Resources Survey was conducted in January 2003, and no prehistoric or historic cultural resource sites were discovered.

**Threatened / Endangered Species:** This project is in the known range of the threatened **Bald Eagle** (*Haliaeetus leucocephalus*), **Grizzly Bear** (*Ursus arctos horribilis*), **Canada Lynx** (*Lynx canadensis*), and **Ute Ladies Tresses** (*Spiranthes diluvialis*). There is an experimental population of **Gray Wolves** (*Canis lupus*) that may be present within the project area. The **Mountain Plover** (*Charadrius montanus*) is proposed for listing as threatened and also may occupy the project area. The **Montana Arctic Grayling** (*Thymallus arcticus*) is a candidate species that may be present, but is not currently proposed for listing. In compliance with the Endangered Species Act, a Biological Assessment has been prepared. A preliminary determination has been made that the project will have **no effect** on the **Bald Eagle, Canada Lynx, Ute Ladies Tresses, Mountain Plover and Montana Arctic Grayling**. A “**may affect but is not likely to adversely affect**” determination has been made for **Grizzly Bears**. The project “**is not likely to jeopardize the continued existence**” of the **Gray Wolf**.

Coordination with the U.S. Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act will be completed to determine the project's effects to these species.

**Evaluation Factors:** The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of work on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act (40 C.F.R.; Part 230).

**Comments:** The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. All public notice comments will be considered public information and will be subject to review by the applicant.

Any person may request, in writing and within the comment period specified in this notice, that a public hearing be held for the purpose of gathering additional information. Requests for public hearings must be identified as such and shall state specifically the reasons for holding a public hearing and what additional information would be obtained. The request must be submitted to the U.S. Army Corps of Engineers, 10 West 15th Street, Suite 2200, Helena, Montana 59626. If it is decided that additional information is required and that a public hearing should be held, interested parties will be notified of the date, time and location.

Any interested party (particularly officials of any town, city, county, state, or Federal agency; Indian tribe; or local association whose interests may be affected by the work) is invited to submit to this office written facts, arguments, or objections on or before the expiration date listed on the front of this notice. Any agency or individual having an objection to the work should specifically identify it as an objection with clear and specific reasons. Comments, both favorable and unfavorable, will be accepted, made a part of the record and will receive full consideration in subsequent actions on this application. All replies to the public notice should be addressed to the **U.S. Army Corps of Engineers, 10 West 15th Street, Suite 2200, Helena, Montana 59626. Please reference the Application Number found on the first page of this notice in any correspondence.** Jean Ramer (project manager), telephone number (406) 441-1375, may be contacted for additional information. You may also fax your comments to (406) 441-1380, or email to: **Jean.L.Ramer@usace.army.mil**

Comments postmarked after the expiration date of this public notice will not be considered.

**Statutory Authorities:** A permit, if issued, will be under the provisions of Section 404 of the Clean Water Act.

